

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 12-06019-01-CR-SJ-DGK
)	
MALCOM WILSON,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On October 31, 2017, Defendant Malcom Wilson was ordered to undergo a psychological examination pursuant to 18 U.S.C. § 4241. (Doc. 111). The examination was conducted at the Federal Detention Center in Englewood, Colorado. The Forensic Evaluation is dated February 13, 2019. The report was filed with the Court on February 26, 2019. (Doc. 112).

A hearing was held as to defendant's competency on February 28, 2019. The defendant appeared in person and through appointed counsel, Steve Moss. Assistant United States Attorney Patrick Edwards appeared for the Government. Both parties stipulated that if called to testify, Jeremiah Dwyer, Ph.D., would testify consistent with the Forensic Evaluation he has submitted to the Court.

In the Forensic Evaluation, Dr. Dwyer opined that the available information indicates Defendant Malcom Wilson is not currently competent to proceed. Dr. Dwyer explained that:

In summary, when evaluating a defendant's competency to proceed, one assesses both the defendant's ability to understand (factually and rationally) the legal proceedings, and their ability to participate in their defense. To the extent there are any significant limitations in either (or both) of these areas, such deficits must be the result of a mental health difficulty. Mr. Wilson's presentation was sufficiently organized and coherent to the extent his factual understanding of the relevant issues was not impaired. However, his rational grasp of his current legal situation, and his ability to assist his attorney in his defense, is presently impaired by the presence of his current persecutory beliefs that are significantly problematic, and possibly

delusional, and which result in an impaired understanding of his current legal situation.

(Forensic Evaluation dated February 13, 2019 at 16).

Accordingly Dr. Dwyer's opinion on competency was that:

Based on the information available, there is objective evidence to indicate that Mr. Wilson may suffer from a mental disorder that significantly impairs his present ability to understand the nature and consequences of the court proceedings against him, and his ability to properly assist counsel in his defense. Mr. Wilson likely has the factual cognitive ability to understand the nature and consequences of the court proceedings against him, and the factual cognitive ability to properly assist counsel in his defense. However, his persecutory thinking is entwined with the substance of the case against him in several respects, and thus his ability to rationally understand the proceedings, and assist in his defense, is presently undermined; additionally, his confusion about recent events, to include when certain events occurred, who was present, etc., further impairs his present ability to assist in his defense. While Mr. Wilson's impairment is complicated, overall it is this clinician's opinion that there is enough available information to opine he is not presently competent to proceed with his case.

(Forensic Evaluation of February 13, 2019 at 16-17).

Based on the Forensic Evaluation submitted by Dr. Dwyer for Defendant Malcom Wilson and there being no challenge to the findings of this report, the Court finds that Defendant Malcom Wilson is not currently competent to proceed. It is, therefore

RECOMMENDED that Defendant Malcom Wilson be found incompetent to proceed. It is further

RECOMMENDED that the court commit Defendant Malcom Wilson to the custody of the Attorney General for hospitalization and treatment pursuant to 18 U.S.C. § 4241(d).

Dated this 1st day of March, 2019, at Kansas City, Missouri.

/s/ Sarah W. Hays
SARAH W. HAYS
UNITED STATES MAGISTRATE JUDGE